

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN JOSE DIVISION
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6 IN RE: HIGH-TECH EMPLOYEE)
7 ANTITRUST LITIGATION)
8) No. 11-CV-2509-LHK
9 THIS DOCUMENT RELATES TO:)
10 ALL ACTIONS.)
11 _____)
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15 VIDEO DEPOSITION OF JONATHAN ROSENBERG
16 March 13, 2013
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19 REPORTED BY: GINA V. CARBONE, CSR NO. 8249, RPR, CCRR
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10:36:44 1 running searches. And they all know their
10:36:49 2 colleges well. They all went to big schools.
10:36:51 3 I went to, like, little, rinky-dink Claremont
10:36:53 4 McKenna College in Southern California. There
10:36:54 5 is, like, 200 graduates a year. So I type in
10:36:58 6 suma cum laude Claremont McKenna College, and I
10:36:58 7 find two people and, you know, I try to
10:37:00 8 convince them to join Google. And then I
10:37:03 9 realize I'm not adding any value. Every week
10:37:05 10 I'm showing up in this room, and they're
10:37:08 11 running searches, finding great people, and
10:37:10 12 giving the great people to the recruiters and
10:37:11 13 saying, just send these -- just tell these
10:37:13 14 people there is a plane ticket to Mountain View
10:37:15 15 and we want to hire them. So I decided that I
10:37:20 16 needed to add some value because I was busy
10:37:22 17 arguing with Larry about the product lines. He
10:37:25 18 didn't think I was a useful executive. So I
10:37:29 19 thought, well, I'll try a different search. So
10:37:32 20 I discovered there was an award at India
10:37:32 21 Institute of Technology called the Gold Medal
10:37:32 22 Award. And I ran a search and I found four
10:37:32 23 people, Prashan, Sihndar, Deep, (phonetic) who
10:37:32 24 won the Gold Medal Award at India Institute of
10:37:32 25 Technology. And I said to the recruiter, call

10:37:32 1 these people and explain to them why they
10:37:32 2 should work at Google. And if they don't agree
10:37:53 3 with you, let me explain it to them. And so --
10:37:56 4 and it worked. Like, suddenly we hired a few

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10:38:13 10 MR. RUBIN: And I'll just object to form.

10:38:14 11 Rule 106.

10:38:17 12 MR. HARVEY: Q. Okay. There are a couple
10:38:22 13 of statements you made in that segment. And I'm
10:38:24 14 just going to repeat them to you because it's
10:38:26 15 easier, given the technology, for me just to say it,
10:38:30 16 and then I'll ask you to explain kind of what you
10:38:32 17 meant by that statement.

10:38:33 18 A. Okay.

10:38:34 19 Q. The first is, we don't want the people who are
10:38:38 20 applying, we want the best people in the world.

10:38:42 21 MR. RUBIN: Objection. Form.

10:38:43 22 MR. HARVEY: Q. What did you mean by that
10:38:45 23 statement?

10:38:46 24 MR. RUBIN: Sorry. I thought you were done,
10:38:47 25 Dean, I'm sorry.

10:38:49 1 Objection. Form.

10:38:55 2 THE WITNESS: I'm not sure how to provide
10:38:58 3 additional clarification beyond what I said.

10:39:03 4 MR. HARVEY: Q. Okay. The second
10:39:07 5 statement that I want to ask you about is, it's not
10:39:10 6 the adverse selection of the people that want you,
10:39:14 7 it's the people that you want. Could you explain
10:39:17 8 what you meant by that statement.

10:39:19 9 MR. RUBIN: Objection. Form.

10:39:32 10 THE WITNESS: Repeat the statement.

10:39:34 11 MR. HARVEY: Q. Sure. It's not the
10:39:35 12 adverse selection of the people that want you, it's
10:39:39 13 the people that you want.

10:39:42 14 MR. RUBIN: Objection. Form.

10:39:45 15 THE WITNESS: I guess you would have to be more
10:39:46 16 specific about what portion of that statement you want
10:39:48 17 me to clarify.

10:39:50 18 MR. HARVEY: Q. Sure. Why don't we break
10:39:51 19 it up. When you used the phrase "adverse selection"
10:39:55 20 in the context of individuals applying to Google,
10:39:59 21 what did you mean by that?

10:40:08 22 A. That there is a bias related to the set of
10:40:13 23 people who apply as opposed to those who don't.

10:40:17 24 Q. And what is that bias?

10:40:18 25 A. That the people who apply, on average, aren't

10:40:21 1 as good.

10:40:24 2 Q. And Google wanted to hire the best people it
10:40:27 3 could?

10:40:28 4 MR. RUBIN: Objection. Form.

10:40:30 5 MR. HARVEY: Q. Correct?

10:40:31 6 A. As a general rule, Google always wanted to hire
10:40:39 7 the best people it could.

10:40:45 8 Q. Okay. I think that's it for the video portion
10:40:47 9 of the deposition.

10:40:56 10 MR. RUBIN: At a break, Dean, can we get a
10:40:57 11 copy? Do you have another --

10:41:00 12 MR. HARVEY: I can give it to you right now.

10:41:02 13 MR. RUBIN: Great. Thank you.

10:41:45 14 MR. HARVEY: Q. In your experience at
10:41:46 15 Google, would you say that the typical employee knew
10:41:51 16 what comparable employees were being paid at Google?

10:41:54 17 MR. RUBIN: Objection. Form.

10:41:57 18 THE WITNESS: I don't know.

10:41:59 19 MR. HARVEY: Q. You don't have an opinion
10:42:00 20 one way or another?

10:42:02 21 A. I don't.

10:42:02 22 MR. RUBIN: Objection. Form.

10:42:10 23 MR. HARVEY: Q. Did you think it was
10:42:11 24 important not to share compensation ranges,
10:42:19 25 compensation information about employees generally

10:42:20 1 with the wider population at Google?

10:42:23 2 MR. RUBIN: Objection. Form.

10:42:28 3 THE WITNESS: I guess you have to -- can you --
10:42:30 4 I don't understand exactly what you are asking.

10:42:32 5 MR. HARVEY: Q. Sure. So let me take a
10:42:34 6 step back for a moment.

10:42:36 7 You had information about what various
10:42:39 8 engineers who worked for you were getting paid, correct?

10:42:43 9 A. I did.

10:42:44 10 Q. And that information was superior, in many
10:42:47 11 ways, to the information that the engineers themselves
10:42:51 12 had about what their colleagues were getting paid,
10:42:54 13 correct?

10:42:54 14 MR. RUBIN: Objection. Form.

10:43:01 15 THE WITNESS: I had information that other
10:43:02 16 people did not.

10:43:03 17 MR. HARVEY: Q. Was it important to you to
10:43:05 18 keep that information from the wider population at
10:43:10 19 Google.

10:43:11 20 MR. RUBIN: Objection. Form.

10:43:16 21 THE WITNESS: As a general rule, salary
10:43:18 22 information is something which is kept confidential, and
10:43:22 23 I -- I generally administered that policy.

10:43:28 24 MR. HARVEY: Q. Do you agree with that
10:43:29 25 policy?

11:32:09 1 number of reasons. One primary reason would be the
11:32:11 2 confidentiality of the candidate.

11:32:14 3 MR. HARVEY: Q. And could you elaborate on
11:32:15 4 that a little bit. What confidentiality concern are
11:32:19 5 you describing?

11:32:21 6 A. A candidate might not want his employer to know
11:32:24 7 that he's interviewing with another firm.

11:32:26 8 Q. And why might a candidate not want his or her
11:32:31 9 employer to know that he's interviewing with another
11:32:33 10 firm, or she's interviewing with another firm?

11:32:37 11 A. I'm sure there are a whole host of relatively
11:32:40 12 obvious reasons that any reasonable person can think of.

11:32:43 13 Q. And what would those obvious reasons be?

11:32:47 14 MR. RUBIN: Objection. Form.

11:32:57 15 THE WITNESS: Can you be specific and give me
11:32:59 16 some possibilities? I can tell you whether I agree or
11:33:01 17 disagree with them rather than just guessing.

11:33:03 18 MR. HARVEY: I don't want you to guess, but you
11:33:04 19 just said that there were some obvious reasons. And so
11:33:07 20 I'd like to have you list what those obvious reasons
11:33:11 21 are.

11:33:12 22 MR. RUBIN: Objection. Form.

11:33:15 23 THE WITNESS: One would be that they could be
11:33:16 24 perceived as disloyal.

11:33:21 25 MR. HARVEY: Q. Are there any others?

11:33:24 1 A. Again, I can't make an exhaustive list for you.
11:33:28 2 I think as a general rule, it's obvious why employees
11:33:31 3 who are looking might not want their employers to know
11:33:34 4 that they're looking.

11:33:41 5 Q. Okay. Why don't we stick with the first reason
11:33:45 6 you gave, that the employer may be concerned that -- I'm
11:33:49 7 sorry -- that the employee may be concerned that his or
11:33:52 8 her employer would perceive that person as disloyal.

11:34:02 9 In that circumstance, where an employer
11:34:05 10 discovers that an employee is interviewing at another
11:34:09 11 company, why would that employer perceive that as a
11:34:16 12 disloyal act?

11:34:18 13 MR. RUBIN: Objection. Form.

11:34:23 14 THE WITNESS: Again, there's lots of reasons.
11:34:27 15 I don't -- I guess I don't understand exactly what you
11:34:29 16 are asking.

11:34:31 17 MR. HARVEY: Q. Well, I'm basically asking
11:34:33 18 you to expand on the point you've already made,
11:34:36 19 which is that an obvious reason why an employee may
11:34:39 20 not want to know -- or may not want their employer
11:34:43 21 to know that they're interviewing is that they could
11:34:46 22 be perceived as disloyal. So I'm asking why is
11:34:49 23 that? Why is that an obvious concern?

11:34:56 24 MR. RUBIN: Objection. Form.

11:35:00 25 THE WITNESS: Because employees have

11:35:02 1 confidential information, and firms compete with each
11:35:06 2 other and often don't want confidential information
11:35:10 3 going from one company to another through an employee.

11:35:17 4 MR. HARVEY: Q. What about the disloyalty
11:35:20 5 piece? What would be disloyal about interviewing
11:35:23 6 with other companies?

11:35:25 7 MR. RUBIN: Objection. Form.

11:35:27 8 THE WITNESS: You would have to ask the manager
11:35:28 9 of the employee what their view of disloyalty is, but
11:35:33 10 I'm sure that many employees perceive that their
11:35:35 11 managers might think it disloyal, and it therefore not
11:35:38 12 to be in their self-interest to have their managers be
11:35:41 13 aware of the fact that they're looking for other
11:35:43 14 employment.

11:35:46 15 MR. HARVEY: Q. And it's fair to say that
11:35:49 16 when an employer learns that an employee is looking
11:35:54 17 around to work for another employer, that this
11:35:59 18 disloyalty concern could result in negative
11:36:04 19 consequences to the career of that employee should
11:36:07 20 that employee choose to stay at the current
11:36:09 21 employer?

11:36:09 22 MR. RUBIN: Objection. Form.

11:36:12 23 THE WITNESS: It's a pretty complex statement.
11:36:15 24 I'm not sure I can speculate on the generality as to
11:36:21 25 whether or not it's true for different people in

12:04:26 1 THE VIDEOGRAPHER: We are now on the record at
12:04:28 2 12:04.

12:04:30 3 MR. HARVEY: Q. Mr. Rosenberg, if you
12:04:30 4 could please take a look at a document that has been
12:04:33 5 previously introduced as Exhibit 1738.

12:04:53 6 A. Okay.

12:04:56 7 Q. Here Mr. Shader responds to Ms. Brown's
12:04:58 8 rejection by e-mailing you and Mr. Kordestani
12:05:03 9 separately, correct?

12:05:04 10 A. Yes.

12:05:07 11 Q. And in it, Mr. Shader wrote, "Hey, guys, I
12:05:12 12 think this is a surprising response given the 'small
12:05:16 13 Valley' phenomenon."

12:05:18 14 Do you know what he's referring to here?

12:05:22 15 A. I do not know.

12:05:24 16 Q. Have you ever heard the term "small Valley
12:05:26 17 phenomenon" in the context of recruiting and hiring?

12:05:29 18 MR. RUBIN: Objection. Form.

12:05:31 19 THE WITNESS: I have not.

12:05:36 20 MR. HARVEY: Q. Okay. And the next
12:05:39 21 sentence is, "Omid's and my personal experiences at
12:05:45 22 Netscape would suggest that it's sometimes hard to
12:05:48 23 anticipate the long-term consequences of decisions
12:05:52 24 that are made when things are going well."

12:05:57 25 Do you see that?

12:05:58 1 A. I do.

12:05:59 2 Q. Do you have an understanding of what he was
12:06:01 3 saying here in terms of what the potential long-term
12:06:04 4 consequences would be?

12:06:07 5 A. I do think I understand what he's saying.

12:06:11 6 Q. And what's that?

12:06:12 7 A. I think he's saying that Google is doing very
12:06:15 8 well, and I'm a partner of yours, and you are choosing
12:06:18 9 not to be helpful to me in this situation. And when
12:06:23 10 things -- and it's a small world, and I don't appreciate
12:06:29 11 it.

12:06:31 12 Q. Sort of suggesting that if Google needs
12:06:35 13 something from Google in the future, Google may not get
12:06:38 14 the answer it wants?

12:06:42 15 MR. RUBIN: Objection. Form.

12:06:46 16 THE WITNESS: I don't know that that's what
12:06:47 17 he's saying, but he is clearly saying that -- he's
12:06:52 18 clearly indicating he's not happy with our choice --
12:06:56 19 with our decision.

12:06:59 20 MR. HARVEY: Q. Okay. If we could
12:07:12 21 fast-forward to the next year, 2004. This was a
12:07:18 22 time of, is it fair to say, explosive growth for
12:07:23 23 Google?

12:07:24 24 A. We were expanding rapidly.

12:07:26 25 Q. And that rapid expansion included hiring

12:07:28 1 rapidly, correct?

12:07:29 2 A. That is correct.

12:07:42 3 MR. HARVEY: This is a new exhibit. I believe
12:07:48 4 we're at 1753.

12:08:00 5 (Whereupon, Exhibit 1753 was marked for
12:08:00 6 identification.)

12:08:06 7 MR. HARVEY: Q. If you could please take a
12:08:08 8 look at the document and let me know when you are
12:08:09 9 ready.

12:08:52 10 A. Okay.

12:08:54 11 Q. Without going through a fairly lengthy email --
12:09:00 12 well, first let me say, this is an email that
12:09:03 13 Ms. Brown -- pardon me, Ms. Brown sent to you and others
12:09:07 14 at Google on June 7th, 2004, correct?

12:09:12 15 A. Correct.

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12:09:22 19 MR. RUBIN: Objection. Form.

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12:09:51 1

MR. RUBIN: Objection. Form.

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12:11:15 25

MR. RUBIN: Objection. Form.

12:29:58 1 MR. RUBIN: Objection. Form.

12:30:08 2 THE WITNESS: I didn't -- I don't believe I
12:30:10 3 ever really fully understood it.

12:30:14 4 MR. HARVEY: Q. But did you understand
12:30:15 5 that it was for internal purposes only?

12:30:18 6 MR. RUBIN: Objection. Form.

12:30:24 7 THE WITNESS: I don't know whether it was or
12:30:25 8 wasn't an internal confidential list or not.

12:30:30 9 MR. HARVEY: Q. So you don't know, sitting
12:30:31 10 here today, whether it was shared with other
12:30:34 11 companies?

12:30:37 12 A. I don't.

12:30:39 13 Q. Do you know, sitting here today, whether a
12:30:42 14 company was put on or off the list pursuant to an
12:30:45 15 agreement with that company who made similar commitments
12:30:51 16 to Google?

12:30:51 17 A. I do not.

12:30:53 18 Q. You don't know one way or the other?

12:30:55 19 A. I don't.

12:30:59 20 Q. Do you recall discussing the do-not-call list
12:31:05 21 at meetings of the executive management group?

12:31:08 22 A. I vaguely recall discussions around recruiting
12:31:12 23 policies and procedures, companies and process --
12:31:18 24 internal processes related to those companies.

12:31:29 25 Q. And in those discussions, was Google's

12:31:33 1 do-not-call list part of those discussions?

12:31:45 2 A. I don't remember referring to the list as a
12:31:47 3 do-not-call list. I remember discussions around the
12:31:51 4 issue of proactively cold calling individuals at other
12:31:57 5 companies or not doing so.

12:32:00 6 Q. And you recall those discussions taking place
12:32:02 7 at meetings of the executive management group?

12:32:08 8 A. I don't recall whether or not they were the
12:32:10 9 official Monday executive management group meetings or
12:32:15 10 other meetings with similar sets of individuals present.

12:32:18 11 Q. Okay. Do you recall when those discussions
12:32:23 12 began, approximately?

12:32:29 13 A. Sometime after I started. So no, I don't
12:32:33 14 recall exactly when they began.

12:32:45 15 Q. Do you recall an event or communication that
12:32:51 16 prompted Google to discuss whether to create a
12:32:54 17 do-not-call list?

12:32:57 18 MR. RUBIN: Objection. Form.

12:33:01 19 THE WITNESS: I recall events from other
12:33:05 20 individuals that caused us to discuss the policy. I
12:33:11 21 don't know the direct -- I don't know the timing of the
12:33:14 22 do-not-call list, nor do I specifically recall the
12:33:17 23 do-not-call list. So I can't link the causality between
12:33:24 24 the two. But I do recall discussions based on
12:33:27 25 individuals voicing objections.

12:33:30 1 MR. HARVEY: Q. And these individuals were
12:33:31 2 typically the chief executives of other companies,
12:33:34 3 correct?

12:33:40 4 A. I think more often than not, the escalation
12:33:43 5 would come through a chief executive, yes.

12:33:46 6 Q. And those chief executives included Steve Jobs,
12:33:48 7 correct?

12:33:49 8 A. Definitely.

12:33:52 9 Q. And those chief executives included Paul
12:33:55 10 Otellini, correct?

12:33:58 11 A. I don't recall Paul specifically calling us,
12:34:02 12 but I do recall discussions involving Paul on these
12:34:09 13 issues. But I don't recall a particular discussion -- I
12:34:12 14 don't recall Paul initiating a discussion.

12:34:15 15 Q. Do you recall anyone else initiating a
12:34:16 16 discussion with Paul about these issues?

12:34:20 17 A. No. I believe I was involved in discussions
12:34:29 18 with Paul, but I don't remember whether I initiated
12:34:32 19 them.

12:34:33 20 Q. Okay. Was Mr. Campbell -- well, he wasn't a
12:34:45 21 chief executive at the time. I guess he was chairman of
12:34:48 22 the board of Intuit.

12:34:49 23 Was he one of those individuals who contacted
12:34:53 24 Google about concerns of Google's recruiting of
12:34:58 25 employees of his company?

12:35:00 1 MR. RUBIN: Objection. Form.

12:35:04 2 THE WITNESS: I believe Mr. Campbell was
12:35:07 3 present for some of these discussions. He was usually
12:35:09 4 present during the Monday after -- he was often present
12:35:11 5 during the Monday afternoon meetings.

12:35:22 6 MR. HARVEY: Q. Do you recall what the
12:35:23 7 basic terms of Google's do-not-call list were with
12:35:30 8 respect to the limitations it imposed on Google?

12:35:39 9 MR. RUBIN: Objection. Form.

12:35:39 10 THE WITNESS: Well, I don't exactly. I believe
12:35:41 11 it changed over the course of time, and I was generally
12:35:47 12 ambiguous as to what -- I generally felt the
12:35:53 13 implications of whatever was on the list was ambiguous.

12:35:59 14 MR. HARVEY: Q. You thought the list
12:36:03 15 imposed ambiguous restrictions on Google?

12:36:09 16 A. I never went through the details of what was on
12:36:11 17 the list, or paid super close attention to exactly how
12:36:15 18 the rules were articulated.

12:36:20 19 Q. Do you have any kind of general understanding
12:36:22 20 of the limitations that were embodied in the do-not-call
12:36:27 21 list?

12:36:27 22 MR. RUBIN: Objection. Form.

12:36:32 23 THE WITNESS: Again, since the -- since my
12:36:34 24 understanding of the policies evolved over time, I can't
12:36:44 25 tell you specifically what was embodied within those

12:36:47 1 policies at any given point in time.

12:36:49 2 MR. HARVEY: Q. But generally, if a
12:36:51 3 company was listed on the do-not-call list, then
12:36:56 4 Google could not cold call into that company,
12:36:59 5 correct?

12:37:01 6 MR. RUBIN: Objection. Form.

12:37:09 7 THE WITNESS: If recruiters cold called into a
12:37:11 8 company that was on the list, they could expect that the
12:37:14 9 other company would escalate and be upset about it.

12:37:18 10 MR. HARVEY: Q. And that initial act of
12:37:19 11 the recruiter, if it happened, would have been in
12:37:22 12 violation of the do-not-call list, correct?

12:37:26 13 A. I don't know.

12:37:35 14 Q. Are you aware of any other companies, aside
12:37:38 15 from Google, that had a similar do-not-call list?

12:37:45 16 A. No.

12:38:01 17 Q. In your experience with other companies, did
12:38:04 18 any of those companies have anything similar to the
12:38:09 19 do-not-call list that Google created?

12:38:11 20 MR. RUBIN: Objection. Form.

12:38:16 21 THE WITNESS: Again, I don't know the specifics
12:38:17 22 of what was on our list. I believe that -- I believe
12:38:24 23 that I have heard of other companies who, in practice,
12:38:26 24 chose or chose not to allow their recruiters to solicit
12:38:31 25 employees of firms that they engaged in business with,

12:38:35 1 and that that is a generally common practice. But not
12:38:41 2 familiar with the specifics of it.

12:38:50 3 MR. HARVEY: Q. What other companies do
12:38:51 4 you know of that had a list of companies that the
12:39:02 5 company could not cold call into?

12:39:15 6 A. Again, I don't know of such a literal list or
12:39:21 7 what might be on the list. I do remember when I was at
12:39:24 8 Dialog, which was a Knight Ridder subsidiary, that it
12:39:28 9 would not have been considered great form to
12:39:34 10 aggressively pursue the attorneys who were sent by a law
12:39:39 11 firm to help us with a particular project.

12:39:47 12 Q. Do you know whether Dialog maintained a list of
12:39:51 13 companies that Dialog could not cold call into?

12:39:55 14 A. No. But I distinctly remember a conversation
12:39:58 15 about recruiting an attorney that we worked with.

12:40:03 16 Q. When did that conversation occur, basically?

12:40:06 17 A. I don't know. Between 1990 and 1993.

12:40:18 18 Q. Okay. Aside from Dialog, are there any other
12:40:21 19 companies you know of that had a policy of not cold
12:40:28 20 calling into specific companies?

12:40:35 21 A. Not that I know of.

12:40:38 22 Q. Do you know whether Intel had such a policy?

12:40:40 23 MR. RUBIN: Objection. Form.

12:40:46 24 THE WITNESS: No, I don't.

12:40:51 25 MR. HARVEY: Q. Did you ever discuss

12:40:52 1 Intel's recruiting activities with anyone at Intel?

12:41:03 2 A. I believe I may have.

12:41:07 3 Q. And what conversations are you thinking of?

12:41:12 4 A. The only person at Intel who I had any regular
12:41:14 5 interaction with would have been Paul Otellini.

12:41:18 6 Q. Do you recall anything that Paul Otellini said
12:41:21 7 to you about Intel's recruiting?

12:41:23 8 A. No.

12:41:29 9 Q. Do you know whether Intuit had a list of
12:41:31 10 companies that Intuit could not cold call into?

12:41:36 11 A. I do not.

12:41:38 12 Q. Do you know whether Apple had a list of
12:41:40 13 companies that Apple could not cold call into?

12:41:44 14 A. I do not.

12:42:07 15 Q. Was Google's do-not-call list ever discussed at
12:42:11 16 a meeting of Google's board of directors?

12:42:15 17 A. It may have been.

12:42:16 18 Q. And what makes you think that it may have been?

12:42:26 19 A. Various parties who we've discussed here were
12:42:28 20 generally at those meetings. And our hiring and
12:42:38 21 recruiting practices were reported on in those meetings.

12:42:57 22 Q. And Mr. Campbell would often attend meetings of
12:43:02 23 Google's board of directors, correct?

12:43:03 24 A. Yes.

12:43:17 25 Q. Do you recall an irate call from Steve Jobs to

12:43:24 1 Sergey Brin in February 2005?

12:43:27 2 A. I recall the reporting of Steve being irate.

12:43:32 3 Q. And what do you recall about that?

12:43:44 4 A. That Steve was upset about -- I don't know
12:43:49 5 which particular conversation you are referring to. I
12:43:51 6 recall a number of instances in which it was reported
12:43:56 7 that Steve was irate. And I recall that the general
12:44:02 8 issues around which he was irate were the hiring of
12:44:09 9 Apple employees into Google.

12:44:15 10 Q. Do you know who at Google Steve called to
12:44:19 11 discuss -- to discuss that issue?

12:44:25 12 A. I believe at different times he called
12:44:27 13 different people. I'm pretty confident that he called
12:44:29 14 both Eric -- I believe I remember Eric saying he had
12:44:32 15 received calls, and I believe I remember Sergey saying
12:44:37 16 he received calls.

12:44:38 17 Q. Aside from Eric Schmidt, I take it, and Sergey
12:44:41 18 Brin, do you recall any other individuals at Google who
12:44:46 19 received these calls from Mr. Jobs?

12:44:50 20 A. The only thing I recall specifically is that
12:44:53 21 Alan Eustace also had a lot of direct discussions with
12:44:57 22 Steve, but those were the three primary people who Steve
12:45:00 23 spoke to over the years. I suppose in addition to
12:45:03 24 Larry. I don't recall a discussion with Larry on this
12:45:06 25 issue.

12:45:09 1 Q. Was it -- well, how common, if at all, was it
12:45:19 2 for Steve Jobs to call someone at Google in an irate
12:45:25 3 fashion?

12:45:27 4 MR. RUBIN: Objection. Form.

12:45:30 5 THE WITNESS: In my experience, our
12:45:32 6 interactions with Steve -- in our interactions with
12:45:37 7 Steve, he generally exhibited an irate, difficult,
12:45:43 8 ornery, and petulant behavior regarding his feelings
12:45:47 9 about our business dealings.

12:45:52 10 MR. HARVEY: Q. Did you have any -- that
12:45:54 11 will do.

12:45:55 12 Did you have any direct communications with
12:45:58 13 Steve Jobs?

12:46:01 14 A. No. Not beyond socially acknowledging his
12:46:08 15 existence in the context of events.

12:46:14 16 Q. Did you ever attend meetings or conference
12:46:17 17 calls where Mr. Jobs participated?

12:46:25 18 A. Not that I can recall.

12:46:40 19 Q. Do you recall whether Google first created its
12:46:48 20 do-not-call list in response to one of these irate calls
12:46:50 21 from Steve Jobs?

12:46:53 22 A. I recall substantive discussion in the time
12:46:57 23 frame -- occurring in the time frame of the call from
12:47:01 24 Steve. I don't know the exact time lines around such a
12:47:06 25 list or changes to such a list.

12:47:10 1 Q. Why don't we go through some documents --

12:47:12 2 A. Okay.

12:47:13 3 Q. -- that I think can help you.

12:47:16 4 This first one, I don't believe has been
12:47:19 5 introduced before.

12:47:28 6 (Whereupon, Exhibit 1754 was marked for
12:47:28 7 identification.)

12:47:41 8 MR. HARVEY: Q. Please let me know once
12:47:42 9 you've had a chance to examine the document.

12:48:27 10 A. Okay.

12:48:31 11 Q. You know, I should have mentioned this earlier,
12:48:33 12 but you were on the emg@google.com email list during
12:48:38 13 this time, correct?

12:48:40 14 A. Absolutely.

12:48:40 15 Q. And you were throughout the time that you were
12:48:44 16 a member of the EMG, correct?

12:48:47 17 A. Correct.

12:48:50 18 Q. Did you receive this email from Mr. Brin, looks
12:48:54 19 like on February 13th, 2005?

12:48:57 20 A. I'm sure I did.

12:48:57 21 Q. And this email describes one of the irate calls
12:49:00 22 we were just talking about, correct?

12:49:01 23 A. Yes, it does.

12:49:06 24 Q. At the bottom of that first paragraph, Mr. Brin
12:49:10 25 wrote, "He made various veiled threats too, though I am

12:49:15 1 not inclined to hold them against him too much, as he
12:49:19 2 seemed beside himself, (as Eric would say)."

12:49:25 3 Do you know what various veiled threats
12:49:31 4 Mr. Jobs made to Mr. Brin?

12:49:32 5 A. No, I don't.

12:49:33 6 Q. Did you ever discuss those veiled threats with
12:49:36 7 Mr. Brin?

12:49:36 8 MR. RUBIN: Objection. Form.

12:49:41 9 THE WITNESS: It's possible.

12:49:44 10 MR. HARVEY: Q. But you don't remember if
12:49:45 11 they happened, what the substance of those
12:49:48 12 conversations were?

12:49:50 13 A. I do not.

12:49:53 14 Q. And here, in what I just read, Mr. Brin says
12:49:57 15 that Mr. Jobs seemed beside himself, as Eric would say.

12:50:02 16 Do you know what he's talking about there in
12:50:03 17 terms of sounds like a phrase that Eric Schmidt used to
12:50:12 18 describe Mr. Jobs?

12:50:13 19 A. I think he's referring to the odd and
12:50:18 20 idiosyncratic manner of Steve's behavior when he engaged
12:50:24 21 with other companies and projected a great deal of anger
12:50:29 22 on an issue in a way that was unlike what many of us are
12:50:32 23 accustomed to with other executives.

12:50:54 24 Q. Okay. If you could look at Exhibit 561, which
12:50:57 25 appears to be written that Monday by Ms. Brown.

12:51:08 1 A. The following Monday.

12:51:12 2 Q. Yes. Thank you.

12:51:32 3 A. Okay.

12:51:34 4 Q. Do you recall the meeting of the EMG described
12:51:38 5 in this document that took place on February 14th, 2005?

12:51:45 6 A. I believe I was there, but I don't recall the
12:51:47 7 specifics of the meeting.

12:51:50 8 Q. Do you recall, generally, that the senior
12:51:53 9 executives of Google at that meeting discussed Steve
12:51:58 10 Jobs' call and what to do about it?

12:52:04 11 A. I don't recall the discussion occurred at that
12:52:07 12 management meeting, but it seems likely, given the dates
12:52:10 13 and times on these emails.

12:52:14 14 Q. And Ms. Brown wrote in this email, "We agreed
12:52:20 15 in EMG today that we would treat three companies in a
12:52:25 16 special way going forward, Genentech, Intel, and Apple."

12:52:31 17 Do you know why Genentech and Intel were
12:52:33 18 included with Apple here?

12:52:35 19 MR. RUBIN: Objection. Form.

12:52:36 20 THE WITNESS: I don't.

12:52:39 21 MR. HARVEY: Q. Do you know whether Paul
12:52:42 22 at Intel or Mr. Levinson at Genentech made similar
12:52:47 23 calls to Google at the time?

12:52:51 24 A. I do not.

12:52:57 25 Q. Do you recall anything about the discussion

02:32:52 1 Bill and felt that a scenario could evolve in which I
02:32:57 2 want to give a courtesy call to Paul Otellini. But Mike
02:33:00 3 was coming tomorrow, and I'll find out how Mike wants to
02:33:05 4 handle the communication with his own management. And
02:33:08 5 we haven't even gotten to the stage of specifically
02:33:10 6 discussing an offer yet. So my next step is to speak to
02:33:14 7 Mike and then determine what I need to do next.

02:33:28 8 Q. Do you recall what Mike's -- well, sorry. Did
02:33:33 9 you, in fact, meet with Mike the next day?

02:33:35 10 A. I don't remember.

02:33:39 11 Q. Do you recall speaking with Mike about this
02:33:43 12 issue?

02:33:44 13 A. I do not.

02:33:47 14 Q. Did Mike come to work for Google?

02:33:49 15 A. I don't know.

02:33:51 16 Q. Okay. That's something presumably we can
02:33:56 17 check.

02:34:11 18 Actually, this is the end of a segment. Why
02:34:14 19 don't we take a break.

02:34:16 20 THE VIDEOGRAPHER: We are now off the record at
02:34:17 21 2:34.

02:34:22 22 (Recess taken.)

02:48:36 23 THE VIDEOGRAPHER: We are now on the record at
02:48:37 24 2:48.

02:48:38 25 MR. HARVEY: Q. I'm going to change topics

02:48:42 1 and go forward in time a bit --

02:48:45 2 A. Okay.

02:48:45 3 Q. -- to about 2007.

02:48:49 4 A. Okay.

02:48:51 5 Q. Do you recall that at about that time and in

02:48:53 6 that year, Google began to get particularly concerned

02:48:58 7 with Facebook's recruiting of Google employees?

02:49:03 8 A. I don't recall that it was that time or year,

02:49:05 9 but it sounds roughly correct, and I do recall Google

02:49:09 10 being concerned about Facebook's recruiting.

02:49:14 11 Q. And why did Facebook present a concern for

02:49:19 12 Google in that regard?

02:49:25 13 A. Because they were the next hot, young, pre-IPO

02:49:30 14 startup company.

02:49:32 15 Q. They were sort of like where Google was several

02:49:34 16 years prior?

02:49:35 17 A. Relative to large, established companies in the

02:49:38 18 Valley, yes, in many ways, that analogy is correct.

02:49:44 19 Q. And here, the roles were switched a bit where

02:49:48 20 Google had become something of an established company

02:49:51 21 trying to fend off the young upstart; is that fair?

02:50:06 22 MR. RUBIN: Objection. Form.

02:50:06 23 THE WITNESS: I think as I said before, Google

02:50:08 24 was the -- at this stage, Facebook was the young, hot,

02:50:12 25 pre-IPO startup and Google was a larger, more

02:50:15 1 established firm.

02:50:17 2 MR. HARVEY: Q. Okay. If you could please
02:50:34 3 take a look at Exhibit 660.

02:51:16 4 A. Okay.

02:51:17 5 Q. Okay. Did you receive Mr. Brin's email here on
02:51:22 6 the 13th of October, 2007?

02:51:24 7 A. Yes.

02:51:26 8 Q. Okay. And this is an example of the kinds of
02:51:28 9 discussions that Google was having about the retention
02:51:36 10 risk for Google employees presented by Facebook; is that
02:51:40 11 correct?

02:51:45 12 A. That is -- the subject of discussion does
02:51:48 13 relate to Facebook and retention of Google employees.

02:51:54 14 Q. And then you forwarded that email to Bill
02:51:56 15 Campbell the same day, correct?

02:51:58 16 A. Yes.

02:52:02 17 Q. Is there a reason why you would forward an
02:52:03 18 email like this to Mr. Campbell?

02:52:07 19 A. Again, as my closest management advisor, with
02:52:11 20 whom I discussed many of the important issues on Eric's
02:52:17 21 staff, it was customary from time to time for me to send
02:52:22 22 messages to Eric's staff that he might not have received
02:52:26 23 to him.

02:52:30 24 Q. And this threat that Facebook posed, this was
02:52:32 25 one of the topics you discussed with Mr. Campbell?

02:52:36 1 MR. RUBIN: Objection. Form.

02:52:41 2 THE WITNESS: I did discuss the threat from
02:52:43 3 Facebook from time to time with Mr. Campbell.

02:52:52 4 MR. HARVEY: Q. What, to your knowledge,
02:52:54 5 was Mr. Campbell's view of how Google should respond
02:52:58 6 to the threat from Facebook?

02:53:03 7 A. I don't remember his specific broad view, or
02:53:11 8 how it changed over time.

Redacted

Redacted

02:55:14 7 Q. And would Bill's assistance include convincing
02:55:18 8 other senior members of Google's executive team, such as
02:55:22 9 Eric Schmidt?

02:55:24 10 MR. RUBIN: Objection. Form.

02:55:29 11 THE WITNESS: Bill operated across the entire
02:55:30 12 management team, and he and I often discussed goals that
02:55:34 13 we collectively had and how to get to a decision or
02:55:41 14 action as quickly as possible.

02:56:01 15 MR. HARVEY: Q. If you could please take a
02:56:02 16 look at Exhibit 608.

02:56:39 17 A. Okay.

02:56:48 18 Q. Is this an example of the expeditious response
02:56:52 19 you were just describing?

02:56:53 20 A. Yes, it appears to be.

Redacted

02:57:18 1 Q. And did you receive this top email from
02:57:20 2 Mr. Schmidt on the 14th of November, 2007?
02:57:22 3 A. I'm sure I did.

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03:03:58 10 Q. If you could please look at Exhibit 616.

03:04:33 11 I'm going to start by asking you about the last
03:04:36 12 email on the back.

03:04:37 13 A. All right.

03:05:04 14 Okay.

03:05:06 15 Q. Did you receive this email from Ms. Brown on
03:05:09 16 June 23rd, 2008?

03:05:11 17 A. Yes.

Redacted

Redacted

03:06:48 17 MR. HARVEY: Q. And here's Exhibit 666,
03:06:51 18 which I believe is one of the emails you are
03:06:53 19 referring to between you and Sheryl Sandberg.

03:07:09 20 A. Okay. What portion do you want to talk about?

03:07:11 21 Q. Sure. I'm going to start by talking about, it
03:07:16 22 looks like, the beginning of your first email to her on
03:07:21 23 August 9th, 2008 that begins on page 3.

03:07:26 24 A. Okay.

03:07:30 25 Q. In the second paragraph you -- well first, let

03:07:34	1	me ask, did you send this email to Ms. Sandberg on
03:07:39	2	August 9th, 2008?
03:07:45	3	A. Yes.

Redacted

Redacted

Redacted

Redacted

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03:15:15 1 Is this a true statement of fact, as far as you
03:15:18 2 know, that Google agreed with Intel, Apple, and maybe a
03:15:23 3 few others not to solicit due to board relationships?

03:15:27 4 MR. RUBIN: Objection. Form.

03:15:27 5 THE WITNESS: I don't know the causality of
03:15:30 6 agreements.

03:15:36 7 MR. HARVEY: Q. Okay. Putting causality
03:15:38 8 aside, do you agree that Google, in fact, made these
03:15:42 9 agreements not to solicit with Intel, Apple and
03:15:43 10 maybe a few others.

03:15:45 11 MR. RUBIN: Objection. Form.

03:15:47 12 THE WITNESS: I believe we had a do-not-call
03:15:49 13 list and a policy as articulated by Mr. Geshuri in the
03:15:54 14 note that we looked at earlier.

03:15:57 15 MR. HARVEY: Q. As far as you know, those
03:15:59 16 weren't pursuant to agreements?

03:16:01 17 MR. RUBIN: Objection. Form.

03:16:02 18 THE WITNESS: I'm not aware of any agreements.

03:16:05 19 MR. HARVEY: Q. So you don't know one way
03:16:06 20 or the other?

03:16:09 21 MR. RUBIN: Objection. Form.

03:16:09 22 THE WITNESS: I'm not aware of any agreements.

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03:24:33 9 MR. HARVEY: Q. Okay. This may be a good
03:24:40 10 time for a short break.
03:24:41 11 MR. RUBIN: Okay.
03:24:42 12 THE VIDEOGRAPHER: We are now off the record at
03:24:43 13 3:24.
03:24:48 14 (Recess taken.)
03:26:18 15 THE VIDEOGRAPHER: We are now on the record at
03:26:20 16 3:26. This is the end of video No. 2.
03:26:23 17 We are now off the record at 3:26.
03:27:41 18 (Recess taken.)
03:33:40 19 THE VIDEOGRAPHER: We are now on the record at
03:33:41 20 3:33. This is the beginning of video No. 3.
03:33:50 21 MR. HARVEY: Q. Did you ever discuss
03:33:52 22 potential agreements regarding restricting hiring
03:33:57 23 with anyone at Apple from 2004 through 2010?
03:34:05 24 A. Not that I recall.
03:34:10 25 Q. Did the topic of Google restricting recruiting

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2 Reporter licensed in the State of California, License
3 No. 8249, hereby certify that the deponent was by me
4 first duly sworn and the foregoing testimony was
5 reported by me and was thereafter transcribed with
6 computer-aided transcription; that the foregoing is a
7 full, complete, and true record of said proceedings.

8 I further certify that I am not of counsel or
9 attorney for either of any of the parties in the
10 foregoing proceeding and caption named or in any way
11 interested in the outcome of the cause in said caption.

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13 the original transcript will render the reporter's
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15 In witness whereof, I have hereunto set my
16 hand this day: March 25, 2013.

17 _____ Reading and Signing was requested.

18 _____ Reading and Signing was waived.

19 ___X___ Reading and signing was not requested.

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